

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NICHOLAS SCOTT WERLING,

Plaintiff,
v.

JESSICA BREEZER, et al.,

Defendants.

ORDER

23-cv-215-jdp

Plaintiff Nicholas Scott Werling, appearing pro se, is currently incarcerated at the Rock County Jail. Werling alleges that various unidentified “John or Jane Doe” employees of the Jefferson County department of human services “knowingly filed frivolous petitions for his commitment” and testified against him in those proceedings. Dkt. 20, at 4. I dismissed the case because Werling appeared to be alleging that he was indeed committed by state courts and thus his lawsuit was barred by *Heck v. Humphrey*, 512 U.S. 477, 486–87 (1994). Dkt. 23.

Werling has filed a motion to vacate the judgment, stating that he was not actually committed by the state courts, in which case *Heck* wouldn’t apply. But before reopening the case, I will give Werling a short time to submit a new amended complaint that explains in more detail what happened to him in the March and November 2021 proceedings that he discusses in his amended complaint. Federal Rule of Civil Procedure 8(a)(2) requires a complaint to include “a short and plain statement of the claim showing that the pleader is entitled to relief.” Under Rule 8(d), “each allegation must be simple, concise, and direct.” The primary purpose of these rules is fair notice. Because claims like these brought under 42 U.S.C. § 1983 must be based on a defendant’s personal involvement in constitutional violation, *see Gentry v. Duckworth*, 65 F.3d 555, 561 (7th Cir. 1995), each individual defendant that Werling wishes to sue in this

case must be able to understand what they are alleged to have done to violate his rights. In drafting his amended complaint, Werling should remember to do the following:

- Identify all of the individuals he wishes to sue in the caption of the complaint.
- Describe simply and concisely what actions he believes violated his rights. He should state his allegations as if he were telling a story to someone who knows nothing about the events. He should explain the outcome of his court proceedings.
- Rather than attributing his mistreatment jointly to a large group of government employees, he should label each unidentified defendant as John Doe No. 1, John Doe No. 2, and so on, and explain what each individual did to violate his rights.

ORDER

IT IS ORDERED that:

1. Plaintiff Nicholas Scott Werling may have until November 28, 2023, to submit an amended complaint complying with the opinion above.
2. The clerk of court is directed to send plaintiff a copy of the court's prisoner complaint form.

Entered November 7, 2023.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge